

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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GARLAND HENDERSON,

Plaintiff,

v.

CLARK COUNTY SCHOOL DISTRICT,

Defendant.

Case No. 2:19-cv-01631-RFB-DJA

ORDER

This action, filed by Plaintiff Garland Henderson (“Plaintiff”) was commenced on August 16, 2019, (ECF No. 1). The operative Second Amended Complaint was filed on July 27, 2022. (ECF No. 68). In the Amended Complaint, Plaintiff asserts causes of action for violations of the Equal Employment Opportunities statute, 42 U.S.C. § 2000e-2, and Employment Practices statute, NRS § 613.330, against Defendant Clark County School District, (“Defendant”). On June 12, 2024, Defendant filed a Motion for Summary Judgement. (ECF No. 99). Responses were due by July 3, 2024. On July 12, 2024, Plaintiff filed the First Stipulation for an Extension of Time which was granted by the Court extending Plaintiff’s deadline to respond to July 24, 2024. (ECF No. 101). On July 25, 2024, Plaintiff filed the Second Stipulation for an Extension of Time which was granted by the Court extending Plaintiff’s deadline to respond to August 1, 2024. (ECF No. 103). On August 5, 2024, Plaintiff filed the Third Stipulation for an Extension of Time which was granted by the Court extending Plaintiff’s deadline to respond to August 12, 2024. (ECF No. 105). On August 15, 2024, Plaintiff filed the Fourth Stipulation for an Extension of Time which was granted by the Court extending Plaintiff’s deadline to respond to August 20, 2024. (ECF No. 107). On August 28, 2024, Plaintiff filed the Fifth Stipulation for an Extension of Time which was granted by the Court extending Plaintiff’s deadline to respond to September 3, 2024. (ECF No. 109). No response was filed by the September 3, 2024, deadline. On October 3, 2024, Defendant

1 filed a Notice of Non-Opposition arguing that Plaintiff's failure to file an opposition or response
2 warranted dismissal of the action, (ECF No. 111). Additionally, Plaintiff filed the Sixth Motion to
3 Extend time on October 3, 2024. (ECF No. 113) In each of the Motions for an Extension of Time,
4 Plaintiff's counsel asserted that she was unable to meet the deadlines set by the Court due to
5 medical challenges she was facing.

6 On October 7, 2024, the Court entered a Minute Order granting Plaintiff's Sixth Motion
7 for an Extension of Time, and notifying Plaintiff that no additional extensions of time related to
8 Plaintiff's response to Defendant's Motion for Summary Judgement would be granted. (ECF No.
9 114). Plaintiff did not file their response or opposition by the deadline. On November 25, 2024,
10 the Court held a Motion Hearing regarding Defendant's Motion for Summary Judgement. At the
11 hearing, the Court denied Plaintiff's Seventh Motion for an Extension of Time. (ECF No. 116).

12 District courts have the inherent power to control their dockets and "[i]n the exercise of
13 that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.
14 Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may
15 dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey
16 a court order, or failure to comply with local rules. See Ghazali v. Moran, 46 F.3d 52, 53-54 (9th
17 Cir. 1995) (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-
18 61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of
19 complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply
20 with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal
21 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order);
22 Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
23 failure to comply with local rules).

24 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
25 order, or failure to comply with local rules, the court must consider several factors: (1) the public's
26 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the
27 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
28 merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831; Henderson,

1 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at
2 53.

3 Here, the Court finds that the first two factors, the public's interest in expeditiously
4 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
5 dismissal, as this case has been pending for nearly six years. The third factor, risk of prejudice to
6 the Defendants, also weighs in favor of dismissal, since a presumption of injury arises from the
7 occurrence of unreasonable delay in filing a briefing ordered by the Court or prosecuting an action.
8 See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). While public policy favors the
9 disposition of cases on their merits, the Court finds that this factor is outweighed by Plaintiff's
10 failure to file an Opposition over four months after the Motion for Summary Judgement was filed.
11 Finally, the "consideration of alternatives" requirement is satisfied. In addition to granting five
12 motions to extend Plaintiff's deadline to respond, the Court issued a Minute Order providing
13 Plaintiff with additional time to respond and advising that no additional requests for extensions of
14 time to respond to Defendant's Motion for Summary Judgement would be granted. See Ferdik,
15 963 F.2d at 1262 ("Here the fact that the district court first allowed Ferdik an additional thirty days
16 in which to amend his complaint to bring it into compliance with Rule 10(a), constituted an attempt
17 at a less drastic sanction to that of outright dismissal."). Further, Local Rule 7-2(d) provides that
18 "[t]he failure of an opposing party to file points and authorities in response to any motion . . .
19 constitutes a consent to the granting of the motion." Thus, Plaintiff had adequate warning that the
20 case would be dismissed if he failed to file a Response.

21 For the foregoing reasons,
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1 **IT IS ORDERED** that this action is dismissed with prejudice based on Plaintiff's failure
2 to file a response to the Motion for Summary Judgement.

3 **IT IS FURTHER ORDERED** that the Clerk of Court shall enter judgement accordingly
4 and close the case.

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6 **DATED:** March 27, 2025.

A handwritten signature in black ink, appearing to be 'RFB', is positioned above a horizontal line.

RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE